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January 25, 2024

Hon. Jesse M. Furman, U.S.D.J.
United States District Court
Southern District of New York
40 Centre Street, Room 2202
New York, NY 10007

Re: Emery Leon Mitchem, Jr. v. New York University, a New York Corporation, and Does 1 through 20, inclusive
Case No.: 1:23-cv-07320 (JMF)

Dear Judge Furman:

We represent Plaintiff Emery Mitchem. I submit this letter in accordance with Rule 3 you're your Honor's Individual Rules and Practices prior to the initial pre-trial conference scheduled for January 30, 2024.

We concur in the Proposed Civil Case Management Plan and Scheduling Order filed by Defendant New York University through its counsel today, as well as the information set forth in its letter of today's date.

However, I dispute Defense counsel's footnote number 1 on page one of her letter where she claims that she requested my review of her letter and Plan prior to submission, and that I was not responsive. The reality is that prior to today, she never contacted me about the topic nor showed me any draft letter or Plan. Instead, without notice, one of her associates left me a voicemail and sent me an email for the first time late this morning asking me to review a draft letter they had prepared. Significantly, they first filed their Answer today, too.

I was out of office in a meeting all day today, which meeting was pre-scheduled. The first chance I had to read Defense counsel's email, see her draft letter or hear her voicemail message was late this afternoon. I immediately reached out to her, but did not receive any word back until tonight when she apologized to me for being unavailable and asked me to let her know if there was anything in the letter I did not agree with and she would submit a revised version tomorrow.

Rather than pursue that, I believe it easiest for the Court for me to submit this letter confirming my agreement with the rest of the information set forth in the letter and proposed Plan.

In closing, I wish to emphasize that I believe this matter would benefit from referral to a compulsory settlement conference or mediation. My client and I tried a few times to get Defendant NYU to engage in settlement discussions prior to filing this lawsuit, but they were not interested. Based on the Plan they filed today through their counsel, it appears that now they are willing. Plaintiff is, as well.

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'B. Arbetter', with a stylized flourish at the end.

Brian Arbetter
Partner

cc: Susan D. Friedfel, Esq., Counsel for Defendant New York University (via ECF)